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E-FILED on February 20, 2007

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Jeanette E. McPherson, Nevada Bar No. 5423
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2850 South Jones Boulevard, Suite 1
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E-Mail: bkfilings@s-mlaw.com

Attorneys for Appellees/Debtors and Debtors-in-Possession

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:
USA COMMERCIAL MORTGAGE COMPANY,
Debtor.

Case Nos. BK-S-06-10725 LBR
Case Nos. BK-S-06-10726 LBR
Case Nos. BK-S-06-10727 LBR
Case Nos. BK-S-06-10728 LBR
Case Nos. BK-S-06-10729 LBR
Chapter 11

In re:
USA CAPITAL REALTY ADVISORS, LLC,
Debtor.

Jointly Administered Under
Case No. BK-S-06-10725 LBR

In re:
USA CAPITAL DIVERSIFIED TRUST DEED
FUND, LLC, D

BAP No. NV-07-1021

In re:
USA CAPITAL FIRST TRUST DEED FUND, LLC,
Debtor.

**DEBTORS' RESPONSE TO
ATTORNEY INFORMATION
SHEET FILED WITH EX PARTE
MOTION FOR ORDER
SHORTENING TIME TO HEARING
OF LENDER PROTECTION
GROUP'S MOTION FOR STAY
PENDING APPEAL**

In re:
USA SECURITIES, LLC,
Debtor.

Hearing: N/A
Hearing Time: N/A

Affects:

- All Debtors
- USA Commercial Mortgage Company
- USA Securities, LLC
- USA Capital Realty Advisors, LLC
- USA Capital Diversified Trust Deed Fund, LLC
- USA Capital First Trust Deed Fund, LLC

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 2 Reference is made to the ATTORNEY INFORMATION SHEET FOR EX PARTE
 3 MOTION FOR ORDER SHORTENING TIME TO HEAR APPELLANTS' MOTION FOR
 4 LIMITED STAY PENDING APPEAL [Docket No. 2851] and the EX PARTE MOTION FOR
 5 ORDER SHORTENING TIME TO HEAR APPELLANTS' MOTION FOR LIMITED STAY
 6 PENDING APPEAL [Docket No. 2849] filed on February 20, 2007 by Alan R. Smith, Esq. as
 7 counsel for the purported "Lenders Protection Group," Appellees USA Commercial Mortgage
 8 Company, USA Capital First Trust Deed Fund, LLC, USA Capital Diversified Trust Deed Fund,
 9 LLC, USA Capital Realty Advisors, LLC and USA Securities, LLC (collectively, "Debtors"), by
 10 and through their undersigned counsel, inform the Court that

11 a. Lenard E. Schwartzer, Esq., local counsel for the Debtors received an e-mail from
 12 Kevin Darby, Esq. of the law office of Alan Smith requesting consent to an order shortening time
 13 with regard to the Motion for Limited Stay pending Appeal by an e-mail dated February 20, 2007
 14 and time-marked 4:20 p.m. A copy is attached hereto as Exhibit "1".

15 b. Approximately 30 minutes later, Lenard E. Schwartzer, Esq. responded with an e-
 16 mail on February 20, 2007 which was time-marked 5:05 p.m. stating "I would not agree to an
 17 order shortening time." A copy is attached as Exhibit "2".

18 c. Alan R. Smith e-filed an Attorney Information Sheet that indicated that the
 19 Debtors' counsel, Annette W. Jarvis, Esq., was "unavailable/no response".

20 Debtors would assert that the Attorney Information Sheet filed by Mr. Smith is, at least,
 21 misleading and, more likely, untruthful. It is misleading to suggest that Debtors' counsel was
 22 unavailable or non-responsive when a response was filed in less than 35 minutes. It would be
 23 untruthful if the Attorney Information Sheet was e-filed after 5:05 p.m.

24 Debtors assert that no order shortening time is needed and that it would be better procedure
 25 for the Motion for Limited Stay Pending Appeal to be fully briefed in the ordinary course of these
 26 proceedings. The debtors, and other parties in interest, should be given a full and fair opportunity
 27 to respond to the Motion for Limited Stay Pending Appeal

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1 For the reasons stated, Debtors' counsel was not unavailable and not unresponsive.
2 Debtors' counsel opposes an order shortening time with regard to the Motion for Limited Stay
3 Pending Appeal. For the reasons stated, the Ex Parte Motion for Order Shortening Time to Hear
4 Motion for Limited Stay Pending Appeal should be denied.

5 DATED this 20th day of February, 2007.

6

7

/s/ Lenard E. Schwartzer

8 Lenard E. Schwartzer (NV Bar No. 0399)
9 Jeanette E. McPherson (NV Bar No. 5423)
10 SCHWARTZER & MCPHERSON
11 2850 South Jones Blvd., Suite 1
12 Las Vegas, Nevada 89146
13 Email: bkfilings@s-mlaw.com

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AND

13 Annette W. Jarvis (Utah Bar No. 1649)
14 Steven C. Strong (Utah Bar No. 6340)
15 RAY QUINNEY & NEBEKER P.C.
16 36 South State Street, 14th Floor
17 P.O. Box 45385
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19 Email: ajarvis@rqn.com
20 Email: strong@rqn.com

21 *Attorneys for Appellees*

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2850 South Jones Boulevard, Suite 1
Las Vegas, Nevada 89146-5308
Tel: (702) 228-7590 • Fax: (702) 892-0122

Exhibit “1”

Lenard Schwartzer

From: Kevin Darby [darby@asmithlaw.com]
Sent: Tuesday, February 20, 2007 4:20 PM
To: ajarvis@rqn.com
Cc: lschwartzer@s-mlaw.com; jmcpherson@s-mlaw.com
Subject: USA Commercial Mortgage

Annette-

We understand the sale to Compass closed. Congratulations!

Now that the sale is closed, we intend to proceed with a Motion For Stay Pending Appeal in the bankruptcy court.

We intend to seek an order shortening time on the Motion. The purpose of this email is to ascertain whether you will agree to an order shortening time.

Please let me know your position as soon as possible.

Respectfully,

Kevin A. Darby, Esq.
Law Offices of Alan R. Smith
505 Ridge Street
Reno, Nevada 89501
Telephone: (775) 786-4579
Facsimile: (775) 786-3066

Exhibit “2”

Lenard Schwartzer

From: Lenard Schwartzer [lschwartzer@s-mlaw.com]
Sent: Tuesday, February 20, 2007 5:05 PM
To: 'Kevin Darby'
Cc: 'jmcperson@s-mlaw.com'; 'Steven Strong'; 'Allison, Thomas'; 'Smith, Susan Marie'; 'ajarvis@rqn.com'
Subject: RE: USA Commercial Mortgage

I would not agree to an order shortening time.
Lenard Schwartzer

From: Kevin Darby [mailto:darby@asmithlaw.com]
Sent: Tuesday, February 20, 2007 4:20 PM
To: ajarvis@rqn.com
Cc: lschwartzer@s-mlaw.com; jmcperson@s-mlaw.com
Subject: USA Commercial Mortgage

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Respectfully,

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